

Jolley

**INTERLOCAL AGREEMENT BY AND BETWEEN THE CITY OF FRISCO AND
FRISCO INDEPENDENT SCHOOL DISTRICT**
(Use and Lighting of Trail on School Property)

This Interlocal Agreement (the "Agreement") is made and entered into as of this ____ day of _____, 2010, by and between the City of Frisco, Texas (the "City") and the Frisco Independent School District (the "District"), collectively referred to herein as the "Parties", on the terms and conditions hereinafter set forth.

WHEREAS, the City and District mutually desire to be subject to the provisions of the Texas Government Code, Chapter 791, the Interlocal Cooperation Act, regarding governmental functions of mutual interest to both Parties for the public health and welfare;

WHEREAS, pursuant to the authority of the Interlocal Cooperation Act, City and District are political subdivisions of the State of Texas having the authority to contract and agree to perform governmental functions and services; and

WHEREAS, because this Agreement involves and constitutes the exercise of a governmental function or services provided by the City and the District, the Parties further acknowledge and agree that this Agreement is intended to be enforceable to the maximum extent authorized by the Interlocal Cooperation Act; and

WHEREAS, the District is the owner of a certain tract of land of approximately _____ acres in size that is located in Lot ____, Block ____, more or less, situated in the _____ Survey, Abstract No. _____, Frisco, _____ County, Texas (the "Property"); and

WHEREAS, the City has a trail system (the "City Trails"), portions of which are lighted for use by members of the public at night; and

WHEREAS, the District constructed a trail (the "District's Trail"), which is connected to the City Trails; and

WHEREAS, the District has agreed to permit public use of the District's Trail and has installed lighting so that members of the public can use the District's Trail after dark; and

WHEREAS, the City has agreed to reimburse the District for a portion of the cost of lighting of the District's Trail under the conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual benefits and premises contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and District agree as follows:

1. City's Obligation. The City shall pay the District Eighty Thousand and No/100 Dollars (\$80,000) towards the District's cost of installing the lighting for the District's Trail (the "Funds").

2. District's Obligation. The District agrees to allow the City and public to use the District's Trail in conjunction with the City Trails. The District agrees that the City's and public's right to use the Trail shall continue in perpetuity and run with the land. The District also agrees to illuminate the District's Trail on such days and at such times as the City illuminates the City Trails.

3. Default. If the District breaches any of the terms of this Agreement, then District shall be in default of this Agreement (an "Event of Default"). If an Event of Default occurs, the City shall give District written notice of such Event of Default, and if District has not cured such Event of Default within thirty (30) days of said written notice, the City may pursue any rights and/or remedies afforded to them under the law in order to enforce this Agreement. In addition to any other remedies available to the City, at law or equity, the City shall be entitled to reimbursement by the District for the Funds given to the District as described in Section 1 above. The District's remedy for the City's breach of any of the terms of this Agreement is limited to specific performance.

4. Notice. Any notice required or permitted to be delivered hereunder shall be deemed to be delivered, whether or not actually received, when deposited in the United States Mail, postage pre-paid, certified mail, return receipt requested, addressed to either party, as the case may be, at the addresses contained below:

If to City: City of Frisco
Attn: City Manager
6101 Frisco Square Blvd.
Frisco, Texas 75034

If to District: Frisco Independent School District
ATTN: Superintendent
6942 Maple Street
Frisco, Texas 75034

5. Miscellaneous.

(a) Assignment. This Agreement is not assignable.

(b) Compliance with Ordinances. Except as provided for in the Agreement, the parties agree that District shall be subject to all ordinances of City.

(c) Entire Agreement. This Agreement contains the entire agreement of the parties with respect to the matters contained herein and may not be modified or terminated except upon the mutual written agreement of the parties hereto.

(d) Venue. This Agreement shall be construed in accordance with the laws of the State of Texas and shall be performable in Collin County, Texas.

(e) Consideration. This Agreement is executed by the parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.

(f) Counterparts. This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

(g) Authority to Execute. The individuals executing this Agreement on behalf of the respective parties below represent to each other and to others that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.

(h) Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns.

(i) Savings/Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision thereof, and this Agreement shall be construed as if such invalid illegal or unenforceable provision had never been contained herein.

(j) Representations. Each signatory represents this Agreement has been read by the party for which this Agreement is executed and that such party has had an opportunity to confer with its counsel.

(k) Sovereign Immunity. Neither Party has waived its sovereign immunity by entering into and performing their respective obligations under this Agreement.

(l) Miscellaneous Drafting Provisions. This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning and any presumption or principle that the language herein is to be construed against any party shall not apply. Headings in this Agreement are for the convenience of the parties and are not intended to be used in construing this document

IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective on the latest date as reflected by the signatures below.

City of Frisco, Texas

By: _____
George Purefoy, City Manager

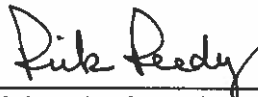
**ATTESTED TO AND
CORRECTLY RECORDED BY:**

Jenny Page, City Secretary

APPROVED AS TO FORM:

Abernathy, Roeder, Boyd & Joplin, P.C.
Claire Swann, City Attorneys

Frisco Independent School District

By: 
Rick Reedy, Superintendent

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

BEFORE ME, the undersigned authority, on this day personally appeared **George Purefoy**, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he acknowledged to me he is the duly authorized representative for the **CITY OF FRISCO, TEXAS**, and he executed said instrument for the purposes and consideration therein expressed.

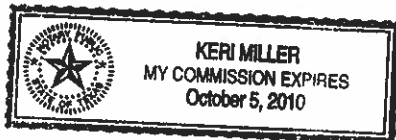
GIVEN UNDER MY HAND AND SEAL OF OFFICE this ____ day of _____ 2010.

Notary Public in and for State of Texas
My Commission Expires: _____

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

BEFORE ME, the undersigned authority, on this day personally appeared **Rick Reedy**, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he acknowledged to me he is the duly authorized representative for the **FRISCO INDEPENDENT SCHOOL DISTRICT**, and he executed said instrument for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 21st day of June 2010.



Keri Miller

Notary Public in and for State of Texas
My Commission Expires: 10/5/10